IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 10091 of 2007(B)

PETITIONER:

K.M.VARGHESE,S/O.LATE K.V.MARKOSE,
AGED 60 YEARS,KUTTIKATTIL HOUSE,CHOOLIPADAM DESOM,
ELANADU P.O,THRISSUR DISTRICT.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

---

1. THE STATE OF KERALA,REP.BY THE
SECRETARY,DEPARTMENT OF REVENUE,SECRETARIAT,
THIRUVANANTHAPURAM.

2. TAHSILDAR (ASSESSING AUTHORITY),
TALAPPILLY TALUK.

3. THE VILLAGE OFFICER,ELANAD,THRISSUR
DISTRICT.

BY G.P. SRI. P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF DEMAND NOTICE DATED 19.9.2003 ISSUED BY 2ND RESPONDENT.

EXT.P2 TRUE COPY OF APPEAL DATED 23.10.2003 SUBMITTED BY THE PETITIONER.

EXT.P3 TRUE COPY OF ORDER DATED 3.6.2004 ISSUED BY RDO.

EXT.P4 TRUE COPY OF DEMAND NOTICE DATED 3.1.2006 ISSUED BY 2ND RESPONDENT.

EXT.P5 TRUE COPY OF CERTIFICATE DATED 6.2.2006 ISSUED BY THE PRESIDENT OF THEJ PAZHAYANNUR GRAMA PANCHAYAT.

EXT.P6 TRUE COPY OF REPRESENTATION DATED 13.2.2006 MADE BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 10091 OF 2007

Dated this the 10th day of September, 2007

JUDGMENT

Petitioner is challenging the assessment and proceedings for recovery of luxury tax in respect of a residential building, the plinth area of which admittedly is above the limit that attracts luxury tax under Section 5A of the Kerala Building Tax Act. Government Pleader on instructions submitted that petitioner himself declared through statement filed before the Tahsildar that construction of the building was completed and petitioner started occupying the building from 2.2.2000 and the assessed building tax was paid without any dispute. Therefore I find no bona fides in the dispute against luxury tax because construction was admittedly completed after 1.4.1999. The only document produced by the petitioner in support of his claim for completion of construction of the building prior to 1.4.1999 is the letter from the President of the Panchayat which, I do not think, should be considered in view of the admission by the petitioner to the contrary. In the circumstances, W.P. is devoid of any merit and is dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge